

**2001 DRAFTING REQUEST****Senate Amendment (SA-SB55)**

Received: 05/24/2001

Received By: isagerro

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Carreon

This file may be shown to any legislator: NO

Drafter: isagerro

May Contact:

Addl. Drafters:

Subject: Public Assistance - misc  
Public Assistance - food stamps

Extra Copies:

Submit via email: NO

Requester's email:

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**Pre Topic:**

LFB:.....Carreon -

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**Topic:**

Permit penalties paid by counties and tribes to be used for food stamp reinvestment activities

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/2	isagerro 05/30/2001	csicilia 06/04/2001	kfollet 06/05/2001	_____	lrb_docadmin 06/05/2001		

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Page 1

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operations appropriations as annual appropriations.

32. LFB Paper #1055. Alternative 1b. Require DWD to obtain approval from the Secretary of the Department of Administration and the Joint Committee on Finance, through a 14-day passive review process, for any proposed reallocation within the TANF program if the amount exceeds 5% per allocation per year.

33. LFB Paper #1056. Alternative 2. Allow penalties paid by counties and tribes to be used for food stamp reinvestment activities as follows:

a. Modify s. 20.445(3)(L) of the statutes to do the following: (1) allow the appropriation to receive funds from counties or tribal governments as a result of DWD's error-reduction activities; (2) allow the appropriation to be used to pay sanctions imposed on the state under the food stamp program or to fund food stamp reinvestment activities; and (3) allow the appropriation to be used for both local and state activities.

b. Repeal s. 20.445(3)(Lm) and transfer all unencumbered continuing balances in the appropriation to s. 20.445(3)(L);

c. Delete language in s. 49.197(3) requiring the Department to fund all fraud and error reduction activities under s. 20.445(3)(L) since some error reduction activities would not be funded under that appropriation; and

d. Increase funding by \$975,000 PR annually to reflect revenues anticipated to be received from penalties levied on counties for food stamp payment errors and existing excess revenue from overpayment collections. Reduce GPR by \$450,000 in 2001-02 to reflect a net reduction in the amount of GPR needed for food stamp reinvestment activities.

34. LFB Paper #1057. Alternative 2. Make the following technical and clarifying statutory changes: (a) delete the definition of "income maintenance worker"; (b) clarify that DWD and DHFS would jointly contract for the costs of administering both BadgerCare and MA; (c) delete Wisconsin Works from the definition of the income maintenance program; (d) retain county administration of child care in the definition of the income maintenance program; and (e) allow DHFS and DWD to contract with tribes for MA administration and allow DWD to contract with tribes for food stamp administration.

35. LFB Paper #1057. Alternative 3. Adjust DWD's appropriation schedule to reflect \$58,341,600 PR annually anticipated to be received under the bill from DHFS for payments to counties for eligibility determination, CARES maintenance and other administrative functions. Specify that these funds would be placed in unallotted reserve in DWD.

36. Provide \$100,000 FED annually to the Wisconsin Trust Account Foundation (WisTAF) to distribute to grantees for the provision of direct civil legal services to low-income individuals in the state. Retain the statutory provisions relating to providing TANF funding for WisTAF.



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 21, 2001

Joint Committee on Finance

Paper #1056

### **Food Stamp Reinvestment (DWD -- Economic Support and Child Care)**

[LFB 2001-03 Budget Summary: Page 752, #45]

#### **CURRENT LAW**

As part of an effort to reduce payment errors in the food stamp program, the federal government evaluates how states' food stamp payment error rates compare to each other. States that have error rates above the national average are penalized according to how much their error rate in a given year exceeds the national average. States below the national error rate receive incentive funds. States are allowed to reduce and satisfy their penalty by "reinvesting" new state funds into activities to reduce the error rate.

The state currently has unfunded food stamp reinvestment obligations to the federal government of \$3,966,000: (a) \$1,224,800 for current food stamp reinvestment commitments through federal fiscal year (FFY) 1999; (b) \$1,070,000 for not sufficiently reducing the state's error rate; and (c) \$1,671,200 for the FFY 2000 error rate.

The types of activities funded through food stamp reinvestment include participant outreach, training and other error reduction activities.

#### **GOVERNOR**

The bill would provide \$1,000,000 GPR in 2001-02 for food stamp reinvestment activities required to satisfy federal sanctions for payment errors. The bill would also require the Department of Workforce Development (DWD) to allocate \$500,000 FED for food stamp reinvestment activities from funds that were previously set aside in case federal funding could not be used to cover certain administrative costs.

## DISCUSSION POINTS

1. The state currently has \$3,966,000 in unfunded food stamp reinvestment obligations. To partially address these obligations, the Governor's bill would provide \$1,000,000 GPR in 2001-02. The Governor's bill would also require DWD to allocate \$500,000 for food stamp reinvestment activities from funds that were previously set aside in case federal funding could not be used to cover certain administrative costs. On September 25, 1998, the Joint Committee on Finance set aside \$500,000 to reimburse the federal government for administrative expenditures made in fiscal year 1996-97. These funds were only to be used if the federal Departments of Labor and Health and Human Services did not approve the original expenditures. These funds have not been used because the state's cost allocation plan has not yet been approved by the federal government. In the event that these administrative costs are ultimately not approved for federal funding, DWD would have to request additional GPR or other state funding to reimburse the federal government.

2. Not all of the \$3,966,000 reinvestment obligation must be satisfied in the 2001-03 biennium. A total of \$618,400 must be spent by May 1, 2003, \$606,400 must be spent by September 30, 2003, \$1,070,000 must be spent by May 1, 2004, and \$1,671,200 must be spent by September 30, 2004. In order to expend funds within the timeframes required by the federal government, it is estimated that \$3,000,000 would have to be budgeted in 2001-03. Since the Governor's budget provides \$1,500,000 for food stamp reinvestment activities, there is an estimated unfunded obligation for 2001-03 of \$1,500,000.

### DWD Proposed Statutory Changes

3. Because federal regulations require that food stamp reinvestment activities represent new or increased expenditures, existing programs cannot not be used to satisfy these obligations. DWD has identified a mechanism to provide additional revenue for food stamp reinvestment activities to meet the remaining \$1,500,000 unfunded obligation in 2001-03. In DWD's calendar year 2000 and 2001 income maintenance contracts with counties and tribal governments, there are three provisions that allow the Department to assess penalties on agencies. The first provision allows DWD to assess a penalty equal to the difference between the correct benefit amount and the actual benefit paid, multiplied by 63 for the 2000 contract and 80 for the 2001 contract. The second provision allows DWD to assess liquidated damages of \$250 for each error that has not been corrected within 30 days after notification by the Department. The third provision applies only to the Milwaukee County calendar year 2001 contract and allows DWD to assess a penalty of \$250,000 if Milwaukee County's FFY 2001 error rate is greater than 13%.

4. According to DWD, a total of \$503,800 in penalties could be assessed on local agencies for calendar year 2000, based on the formulas in the contracts and the county error rates for that time period. The calendar year 2000 penalties would only apply to Dane and Milwaukee counties, but could apply to other counties in future contracts, depending on the size of the county and the county error rate. DWD anticipates that similar penalty amounts could be assessed for calendar year 2001 during the 2001-03 biennium, for a total of \$1,000,000 that could be available to fund food stamp reinvestment activities. However, there is not currently a mechanism in DWD's budget for these penalties to be used for food stamp reinvestment activities. Instead, these funds

would be deposited into the general fund as departmental revenues. These penalty amounts have not been included in the general fund departmental revenues estimate under the bill.

5. DWD has two appropriations for welfare fraud and error reduction activities: one for state-level activities [s. 20.445 (3)(L)] and one for local-level activities [s. 20.445 (3)(Lm)]. These appropriations are funded by the program revenues received by the state as its share for collecting overpayments of public assistance benefits. Revenues credited to the appropriation for state activities may not exceed the amounts in the appropriation schedule. Any program revenues exceeding the amounts in the schedule for state activities are to be credited to the appropriation for local activities.

6. DWD recommends that s. 20.445(3)(L) be modified to receive funds from penalties levied as part of the income maintenance contracts. DWD also proposes to allow the appropriation to be used to pay sanctions imposed on the state from the food stamp program or to fund food stamp reinvestment activities. To provide more flexibility and to simplify the appropriations structure, DWD recommends that the two PR appropriations for fraud and error reduction be consolidated into one appropriation.

The Committee should also correct an inconsistency in the current statutes. Section 49.197(3) requires the Department to fund all fraud and error reduction activities with the PR appropriation in s. 20.445(3)(L). Under current practice, DWD is funding some fraud and error reduction activities with federal funding. In addition, the Governor's bill would fund some food stamp reinvestment activities under a GPR appropriation and some under a FED appropriation.

As part of this option, the Committee could increase PR by \$500,000 annually, based on DWD's proposed statutory changes, for a total of \$1,000,000 over the biennium. These funds could be used to meet the anticipated unmet need for food stamp reinvestment activities. The increased expenditure authority is included in Alternative 2 below. Under this option, the general fund would not receive \$500,000 per year. However, this revenue was not assumed to be available in the Governor's bill.

7. DWD's proposed statutory changes, together with the Governor's recommendations, would provide approximately \$2,500,000 during the 2001-03 biennium for food stamp reinvestment activities. Since it is estimated that \$3,000,000 needs to be expended during the biennium, an additional \$500,000 would still need to be identified.

8. Funds are available for food stamp reinvestment activities in s. 20.445(3)(L) as proposed to be amended by DWD, because available revenues in this appropriation are expected to exceed budgeted expenditures in the next biennium by \$950,000. All of these surplus revenues could be used for food stamp reinvestment activities. This additional expenditure authority is included in Alternative 2 below. Using this revenue would bring all funding sources identified to \$3,450,000. Since only \$3,000,000 is anticipated to be needed, the Committee could reduce the amount of GPR funding provided for food stamp reinvestment by \$450,000, from \$1,000,000 to \$550,000.



## ALTERNATIVES TO BILL

1. Adopt the Governor's recommendation to: (a) provide \$1,000,000 GPR in 2001-02 for supplies and services for food stamp reinvestment activities required to satisfy federal sanctions for payment errors; and (b) require DWD to allocate \$500,000 for food stamp reinvestment activities from funds that were previously set aside in case federal funding could not be used to cover certain administrative costs.

### Statutory Modifications

2. Modify the Governor's recommendation to allow penalties paid by counties and tribes to be used for food stamp reinvestment activities as follows:

a. Modify s. 20.445(3)(L) of the statutes to do the following: (1) allow the appropriation to receive funds from counties or tribal governments as a result of DWD's error-reduction activities; (2) allow the appropriation to be used to pay sanctions imposed on the state under the food stamp program or to fund food stamp reinvestment activities; and (3) allow the appropriation to be used for both local and state activities.

*?? are these sep. from 49.197?*

b. Repeal s. 20.445(3)(Lm) and transfer all unencumbered continuing balances in the appropriation to s. 20.445(3)(L);

c. Delete language in s. 49.197(3) requiring the Department to fund all fraud and error reduction activities under s. 20.445(3)(L) since some error reduction activities would not be funded under that appropriation; and

d. Increase funding by \$975,000 PR annually to reflect revenues anticipated to be received from penalties levied on counties for food stamp payment errors and existing excess revenue from overpayment collections. Reduce GPR by \$450,000 in 2001-02 to reflect a net reduction in the amount of GPR needed for food stamp reinvestment activities.

Alternative 2	GPR	PR	TOTAL
2001-03 FUNDING (Change to Bill)	- \$450,000	\$1,950,000	\$1,500,000

### Maintain Current Law

3. Maintain current law.

Alternative 3	GPR
2001-03 FUNDING (Change to Bill)	- \$1,000,000

Prepared by: Victoria Carreón

## Sager-Rosenthal, Ivy

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**From:** Carreon, Victoria  
**Sent:** Tuesday, May 22, 2001 4:34 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** Food Stamp Reinvestment

Ivy,

The e-mail below has some suggested statutory language for the food stamp reinvestment paper # 1056. This is essentially what was adopted by the Joint Finance Committee so you can use it as a guide.

Let me know if you have questions.

-Victoria

-----Original Message-----

**From:** Mansfield, Mark  
**Sent:** Thursday, May 03, 2001 8:56 PM  
**To:** Carreon, Victoria  
**Cc:** Smith, Thomas K - DWD BUDGET; Markham, Kimberly; Stafford, Joseph; Noyes, Jennifer; Zynda, Richard; Bates, James; Bergman, Mark; Smith, Shawn; Blaine, Robert  
**Subject:** Appr. Language for using APE penalties for FS Reinvestment

Victoria, as I mentioned to you, our CY 2000 and CY 2001 IM contracts contain provisions that provide, "The IM Agency will be held accountable for errors in food stamp cases which the IM agency could have prevented..." ("Agency Preventable Errors" or "APEs"). As the Legislature reviews the funding requirements for the State's food stamp reinvestment activities, DWD supports an alternative that would provide that any revenues the Department collects from these local-contract provisions be automatically appropriated to fund food stamp reinvestment, rather than lapse to the general fund, potentially requiring an additional legislative step to appropriate the funds to food-stamp reinvestment. There would seem to be a common-sense connection to this idea--providing a kind of double benefit from the contractual provisions: Both a disincentive/penalty, and providing funding for positive improvements in the program.

As we've discussed, two existing DWD appropriations already receive other specific program revenues and can be used for food-stamp error-reduction activities, among other things. Unfortunately, the statutory references for the revenues they receive do not appear to encompass these revenues. We suggest an approach that would add these food-stamp-related revenues to the revenues these existing appropriations receive. In doing that, however, it would be necessary to address the relationship between the two appropriations (which should get the revenues, or should each get part). Arguably many food stamp reinvestment activities could be construed as "state operations," but it would be complicated to do that while maintaining the concept of s.20.445 (3) (L) [328] being a sum-certain appropriation with the balance of revenues flowing to s.20.445 (3) (Lm) [338]. Therefore, we're suggesting consolidating the two along the lines specified in the attachment.

The rationale for this would include:

- The amount of revenues that will be received from the provisions in the CY 2001 contract cannot be predicted until the FFY 01 FS error rate is known.
- There is some uncertainty at this point whether some FS reinvestment activities are more appropriately viewed as state operations or local assistance. Flexibility would be helpful in ensuring the agency can find enough activities to satisfy the reinvestment requirements.
- Moreover, the distinction between state operations and local assistance doesn't matter from a federal-reinvestment perspective: All USDA cares about is the activities funded and the amount spent during specified timeframes.
- To ensure continuity in reinvestment activities after SFY 03, it will be helpful to have some funding in a continuing appropriation, particularly if passage of the next state budget is delayed.
- There is no point in having more separate appropriations than necessary since our appropriation structure is already complex enough.

You and I briefly discussed the concept reflected in current law of separate appropriations for "state operations" expenditures and "local assistance" expenditures. You asked whether it was possible to do both out of one and whether I could write out some of my discussion points for you.

- Yes, it is possible to fund both types of costs from a single appropriation. Legally that depends solely on the appropriation language.

- The distinctions between "state operations" and "local assistance" depend somewhat on the context. As you may have noticed, there is an "S/L/A" tag on each appropriation in some budget materials. As I understand it, this is primarily a state budget office/accounting/tracking type of convention (it doesn't appear in ch.20, for example). The policy was always that an appropriation could only be one type, but that was supposed to be defined by the end recipient/purpose of majority of the funding. In other words, it recognized that an appropriation could fund more than one of these activities, but could only be labeled as one or the other according to what most of it was used for. My impression is that this was used primarily so that the amount the state was providing to local governments or for aids to individuals and organizations could be easily summarized, so naturally, the more separately they were budgeted, the purer those numbers would be. However, in recent years, that view seems to be becoming less important.
- As near as I can tell, the distinctions reflected in 328 and 338 are not pure to begin with: Ultimately, state operations should reflect functions which are the responsibility of the state, and local assistance should reflect state aid to offset local costs associated with functions that are the responsibility of the local level of government (e.g., Shared Revenues, which reduce property taxes for fire, police, etc., and state aids for local roads, and transit systems). The distinction is particularly blurry with counties, which the state often uses as its "contractor" for something it is really responsible for. For example, in DOT, the state owns the state highway system and contracts with counties to maintain them. Its maintenance appropriation is "state operations." In DWD, some state functions the state contracts with counties to carry out seem to be labeled local assistance." (This may reflect a past history of functions counties were mandated to do, or in a few cases some "latent" county mandates on the books, were the state to quit providing some programs).
- In recent years there has been a different context for the term, "state operations": In an era of tight budgets it is sometimes used interchangeably with "administration," and "overhead," referring to the part of the budget legislators might like to reduce, as opposed to "funding for the program." When the term is referred to in this context, often there is an attempt to distinguish appropriations that fund state staff from those that fund "programs real people care about." Sometimes that is misleading, either because the staff are essential to deliver the program (e.g., DVR, or arguably public assistance collections), or because the "general operations" label is misleading (e.g., our appropriation 301 providing funding for essential child support functions, or it's alpha, s.20.445 (3) (a) providing funding for mandatory food stamp reinvestment under the governor's rec).
- I'd argue that even those legislators concerned to limit the growth of "state operations" should not be particularly concerned about consolidating these appropriations: 1) Frequently, they are trying to limit GPR appropriations and point to using more program revenues as a way to maintain services while reducing reliance on GPR; 2) The amount of an appropriation that could be used for state staff costs would still be limited by the number of state staff doing work that is appropriate to charge to the appropriation based on the purposes/activities listed in ch.20 that the appropriation can fund; 3) In this context, state staff charges would either be associated with reducing and recovering error and fraud in the food stamp and other economic support programs (something those that want to reduce state spending typically favor) or, possibly under this proposal, a lesser concern if we are mandated to spend the money on something to satisfy the federal reinvestment agreements.

I hope that and the attachment helps. Let me know what you think.



FSLangforLFB.doc

## Statutory Language for Food Stamp Reinvestment

Under current law, s.49.197 (3) directs, "The department shall conduct activities to reduce payment errors in [MA, W2, AFDC, and the Food Stamp program]. The department shall fund the activities under this section from the appropriation under s.20.445 (3) (L) [338]."

S.20.445 (3) (L) is the appropriation for "Welfare fraud and error reduction; state operations," which receives "the moneys received as the state's share of recovery of overpayments and incorrect payments" under certain statutory provisions relating to the same programs. This is a sum-certain appropriation limited to the amounts in the schedule (base funding = \$891,400). A second appropriation is provided for the balance of any revenues received, to be used for local and tribal activities to reduce error and fraud in the same programs. *s.49.197(3) needs to include (Lm)*

Problem: One of the activities DWD has utilized in its efforts to reduce error in the Food Stamp Program is contractual provisions holding local agencies accountable for "agency-preventable errors" (APE) and for liquidated damages if the local payment accuracy rate does not meet performance standards specified in the contract. While the department can impose such penalties contractually, it does not appear to have current-law authority to expend the revenues, because none of the citations in s.20.445 (3) (L), s.20.445 (3) (Lm) or elsewhere include this type of revenue. Any moneys collected would lapse to the General Fund. Under current law, the value of the provisions is only a financial disincentive for errors. It would make more sense to automatically appropriate the funding to offset the State's GPR need to satisfy its reinvestment commitments to the federal government. Conceptually, this could be achieved by including a reference to s.49.197 (3) in the specified revenues in the PR appropriations under s.20.445 (3) (L) and (Lm).

Related issues: The current-law provision at s.49.197 (3), "The department shall fund the activities under this section from the appropriation under s.20.445 (3) (L)," could create unnecessarily limiting ambiguities and should be repealed. Notably, the Governor's recommendation provides \$1,000,000 for food stamp reinvestment under s.20.445 (3) (a), a different appropriation. (Section 1724 of the language in the bill amends this section but only to permit DHFS-contracted activities).

In addition, while some reinvestment activities could likely be construed as local assistance and funded in s.20.445 (3) (Lm) [328], in this context, the distinction is somewhat artificial. That is, even the locally-conducted activities are likely to be done under contract with the state, and do not fit the pure "local assistance" definition of financial aid to reduce local tax burdens for a local responsibility. The number of state positions authorized is separately controlled without resorting to a cap on the amount appropriated for "state operations." Since s.20.445 (3) (L) and (Lm) receive the same revenues for the same purposes, it would appear they are prime candidates for consolidation.

Last, to be certain that all activities required under food stamp reinvestment plans would be covered, or to enable the use of the revenues to pay sanctions in the event that should ever be preferable to the reinvestment agreements, it could be advisable to directly refer to those purposes in the appropriation language. Since a requirement of reinvestment plans is to show that resources have been allocated to them over and above the normal budget for food stamp administration, such a reference could help demonstrate that the appropriation is specifically authorized for funding food stamp penalties or reinvestment agreements.

One approach is provided on the next page:

Suggested resolution: Amend s.20.445 (3) (L), as follows: All From the moneys received as the state's share of the recovery of overpayments and incorrect payments under s.49.191 (3) (c), 1997 stats., s.49.195, 1997 stats., and ss.49.125 (2), and 49.497 (1), and from counties or tribal governments as a result of the department's error-reduction activities under s.49.197 (3), the amounts in the schedule for the department's activities to reduce error and fraud in the food stamp, aid to families with dependent children, Wisconsin works program and medical assistance programs, to pay sanctions imposed on this state under the food stamp program, or to fund activities under reinvestment agreements with the federal government designed to improve the food stamp program in this state.

Repeal s.20.445 (3) (Lm) and include language transferring any unencumbered continuing balances to s.20.445 (3) (L).

Amend s.49.197 (3) to delete the provision stating, "The department shall fund the activities under this section from the appropriation under s.20.445 (3) (L) [338]." Though the ambiguities would be reduced by combining s.20.445 (3) (Lm) into s.20.445 (3) (L), the distinction between state-conducted activities and local-conducted activities is confusing and the Governor's bill would provide additional funding under a new numeric within s.20.445 (3) (a).

## **Sager-Rosenthal, Ivy**

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**From:** Carreon, Victoria  
**Sent:** Tuesday, May 22, 2001 4:41 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** Paper # 1054 on Continuing Appropriations

Ivy,

Below are some slightly more detailed paragraphs reflecting the changes adopted by JFC in Alternatives 2 and 4a and b in Paper #1054. Let me know if you have questions.

-Victoria

### **Alternative 2**

Change the definition of continuing appropriation to clarify that program revenue continuing appropriations can be limited to the amounts in the schedule and do not have to be "all moneys received."

### **Alternative 4a and b**

Section 49.175 should be clarified by stating that DWD, subject to approval by DOA, can only reallocate funds between allocations within a specific fiscal year so that it does not conflict with section 16.54. Lastly, section 49.175 needs to be clarified to state that funds can only be reallocated if the purpose for which the funds are reallocated is authorized by the appropriation from which the funds are derived. These modifications to section 49.175 would not represent a change from current practice.



MILWAUKEE COUNTY  
**HUMAN SERVICES**  
DEPARTMENT

Adult Services  
Financial Assistance

Mental Health Division  
Youth Services

235 West Galena St.

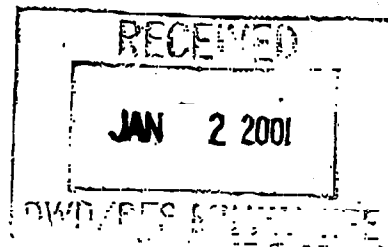
Milwaukee, WI 53212 414-289-5818

289-6688 TTY/TDD For Hearing Impaired

Ralph E. Hollmon  
Director

December 28, 2000

Mr. Talmadge Wilson  
Department of Workforce Development  
819 N. 6<sup>th</sup> Street  
Rm. 672  
Milwaukee, WI 53203



Dear Mr. Wilson:

Enclosed is a signed copy of the 2001 State/County Contract for the Administration of Income Maintenance Programs. Attached, at the end of the contract, is the faxed, revised Appendix M, which is also signed.

I will send you a certified copy of the resolution as soon as I receive one here at the office.

Sincerely,

*Helen Foszpanczyk*  
Helen Foszpanczyk  
Secretary to Mr. Hollmon

Hf/

enclosure

**ADMINISTRATION OF INCOME MAINTENANCE (IM) PROGRAMS CONTRACT**  
**by and between**  
**the Department of Workforce Development and**  
**the Department of Health and Family Services**  
**and**  
**Milwaukee County**



### 11.3 Audit Disallowance.

**11.3.1 County Liability.** The County shall be liable for the entire amount of the audit adjustment attributed to the County. The actual amount of a disallowance against the County shall be determined through the Department's Policies and Procedures.

**11.3.2 Fiscal Sanction.** No fiscal sanction under this article shall be taken against the County unless it is based upon a specific policy which is: (a) effective during the time period which is being audited, and (b) communicated to the County department head or designee in writing by the Department or the federal government prior to the time period audited. No state audit adjustment shall be imposed for sixty (60) calendar days after the date the County receives written notice of the requirement. The sixty (60) calendar day hold-harmless period is not required if (a) the State has been assessed a federal fiscal penalty because federal law and regulations or court order mandated the requirement and held the State to a more restrictive time period, or (b) the requirement is the result of state law and administrative or court order that imposes a more restrictive time period and the imposition of a state fiscal penalty. These conditions in no way negate the County's responsibility to implement policies by their effective dates.

### 12. Corrective Action.

**12.1 Opportunity.** Except under section 15 of this Contract, the IM Agency may submit a Corrective Action plan to address noncompliance with the provisions of this Contract.

**12.2 Requirement to Submit.** Within five (5) business days of receipt by the IM Agency of notice of failure to perform any provision of this Contract, the IM Agency shall submit to the Department for approval a Corrective Action plan to address the deficiency.

**12.3 Failure to Submit or Implement.** A failure by the IM Agency to submit an approvable Corrective Action plan or a failure by the IM Agency to implement a Corrective Action plan within ten (10) business days of approval of the Corrective Action plan by the Department shall constitute uncorrected nonperformance and result in a payment adjustment under section 8.6 of this Contract. A Corrective Action plan is considered approvable if it is determined by the Department that the plan was submitted timely and meets all of the requirements identified by the Department in the Department's notice under section 12.2 of this Contract.

**13. Disputes.** The County's sole and exclusive method of resolving any dispute or controversy arising out of or relating to this Contract shall be the complaint process provided in this section. The County may address a written complaint to the Chief Legal Counsel of the Department at the following address: Department of Workforce Development Chief Legal Counsel, P.O. Box 7946, Madison, Wisconsin 53707-7946. At the same time the complaint is filed with the Department's Chief Legal Counsel, the complaint also may be filed with the IM Advisory Committee (with notice to the Chief Legal Counsel) for the Committee's consideration. The IM Advisory Committee may consider the complaint no later than at its next regularly scheduled monthly meeting. If the complaint is not filed with the IM Advisory Committee, the Chief Legal Counsel shall respond in writing within ten (10) business days. If the complaint is filed with the Committee, the Chief Legal Counsel shall respond within ten (10) business days of receipt of the IM Advisory Committee's recommendation. Time periods may be extended by agreement of the Department and the IM Agency. If either the County or the Department's Contract Manager is not satisfied with the response, either the County or the Department's Contract Manager may request a review of the response by the Wisconsin Division of Hearings and Appeals. The decision of the Division of Hearings and Appeals shall be sent to the Department's Secretary. The Secretary or designee shall respond to the complainant in writing within ten (10) business days of receipt of the Division of Hearings and Appeals decision.

### 14. Agency Preventable Errors.

**14.1 Accountability.** The IM Agency will be held accountable for errors for food stamp cases which the IM Agency could have prevented by complying with the Department's Policies and Procedures and taking appropriate action on the case. A preventable agency error penalty may be assessed for each inaccurately issued benefit which could have been prevented by the IM Agency. The penalty

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will be equal to the total of the difference between the correct case benefit as determined by the Department and actual benefits approved by the IM Agency, multiplied by eighty (80). The multiplier adjusts each year and is based upon the proportion of the dollar value of the Agency Preventable Errors to the total dollar value of errors. A rolling average will be used. The total of assessed agency preventable error penalties will be calculated each federal fiscal year (October through September) beginning October 1997. For each federal fiscal year Wisconsin exceeds the national Food Stamp Program error tolerance level, the Agency's total of assessed agency preventable error penalties for that federal fiscal year will be withheld from the IM Agency's reimbursement payment no later than the second month following receipt of the official notification from the federal government that Wisconsin has exceeded the national error tolerance level. It is the Department's intention not to assess the County any penalty for preventable agency error in any year in which there is no federal sanction assessed against the Department. This section shall apply only to the IM Agency in a County which has a valid sample rate and which exceeds the federal error rate. For the purpose of applying a federal sanction a valid sample means thirty (30) or more cases pulled for the Federal Quality Control (QC) sample.

**14.2 Joint Error Reduction.** The Department agrees to work with counties using a jointly appointed technical work group comprised of equal numbers of state and county staff to jointly develop strategies to effectively address reducing Wisconsin's food stamp error rate. The technical work group will report progress monthly to the Income Maintenance Advisory Committee. The technical work group will propose balanced strategies that specify actions at both the state and local levels needed to reduce the most costly errors. Options to be considered shall include, but not be limited to additional training at a level of detail and specificity local agencies deem necessary, policy revisions to simplify the food stamp program, streamlined and current policy communication procedures, best local practices identified by agencies with low error rates, CARES programming to assure accuracy and promote effective use by line staff, and local reinvestment options for counties to offset penalty amounts.

**15. Liquidated Damages for Uncorrected Quality Assurance Errors.** In addition to the requirements of section 4.7 of this Contract, the Department may conduct a quality assurance review of any of the activities under this Contract to assure that eligibility and benefits are accurately determined. When the Department identifies an error, the IM Agency will have thirty (30) calendar days from receipt of notification from the Department of the error to take required Corrective Action. When an error is not corrected within thirty (30) calendar days, the Parties agree that damages would be difficult to calculate. Accordingly, upon a finding of an uncorrected error, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per uncorrected error. These damages shall be collected under section 8.6 of this Contract.

## **16. General Provisions.**

**16.1 Contract Amendment.** This Contract may be amended at any time with the mutual consent of the Parties through Contract Addendum or with the signature of the Department through Contract Supplement.

**16.2 Inability to Perform.** The IM Agency shall immediately notify the Department whenever the IM Agency is unable to provide the required services specified under this Contract. Upon such notification, the Department shall determine necessary action.

**16.3 Severability.** If any provision of this Contract is found to be illegal, unenforceable, or void, then the remainder of this Contract shall remain in effect.

**16.4 Non-Assignability.** Except as provided in section 5.4 of this Contract, the IM Agency may not assign this Contract or any portion of the services to be provided under this Contract to another person or party without the prior written consent of the Department.

**16.5 Waiver.** No right under this Contract shall be deemed waived unless either Party, by certified mail, sends to the other Party written notice of waiver of that Party's right. No provision of this Contract shall be deemed waived by reason of either Party failing to enforce the provision on one or more occasions.

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11-16-02

**APPENDIX M**  
to the  
**2001 ADMINISTRATION OF INCOME MAINTENANCE (IM) PROGRAMS CONTRACT**  
by and between  
**The Department of Workforce Development**  
and  
**Milwaukee County**

**MILWAUKEE PROGRAM OPERATION**

It is further understood and agreed by both Parties through this Appendix to the State/County 2001 Administration of Income Maintenance (IM) Programs Contract that:

**1. Funds Provided/Period Covered/Purpose**

**1.1 Period Covered and Purpose**

1.1.1 Funds provided to the County for the period beginning January 1, 2001, and continuing through December 31, 2001, are enumerated in Appendix B (IM Agency's Financial Schedule) to this Contract. The Calendar Year 2001 funds are provided for the delivery of income maintenance services for the cases defined as IM Cases in this Contract and the other categories of cases (BadgerCare and Healthy Start) assigned to the County in accordance with the approved Alternate SSP Plan for the period January 1, 2000 through December 31, 2000.

Services provided by the County for W-2 Cases as defined in this Contract except for the categories of cases (BadgerCare and Healthy Start) assigned to the County in accordance with the approved Alternate SSP Plan for the period January 1, 2000 through December 31, 2000, shall be governed by and funded in Calendar Year 2001 through written and signed cooperative agreements reached between the County and the W-2 agencies in Milwaukee County. The written agreements reached between the County and the W-2 agencies in Milwaukee County for Calendar Year 2001 must not contradict the assignment of cases as identified in this section.

1.1.2 Prior written approval of the Department is required before the County uses the funds under this Contract for cases other than those covered by section 1.1.1 of this Appendix.

**1.2 Budgeted Funds for Contract Controlled Funding Allocations**

Contract controlled funding budgeted is identified in Appendix B to this Contract for the following:

- Public Assistance Fraud - Program Integrity
- Income Maintenance Administrative Allocation
- Child Care Administration and Operation
- Regional Training Staff

**1.4 Budgeted Funds for Fully Reimbursable Funding Allocations**

Fully reimbursable budgeted funding is identified in Appendix B to this Contract for the following:

- W-2 Funeral and Cemetery Aids
- Non-W-2 Funeral and Cemetery Aids
- Medicaid Transportation
- Child Care Benefits

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Childhood Care and Education Initiative. The Early Childhood Care and Education Initiative funds must be expended no later than June 30, 2001. The budget for Child Care administration and program operations is based on an estimate of the amount of direct Child Care benefit payments to be made in CY 2001. The maximum amount available for Child Care administration and program operations, including the \$500,000, is five percent (5%) of the actual direct Child Care benefit payments for the County for CY 2001. The County must utilize up to five percent (5%) of child care expenditures, based on the total amount of child care payments, for child care administration (per the federal administrative costs definition) and program operations.

1.7 A County IM Program that is Responsive and Accessible

Budgeted funding is contingent upon the County being responsive and accessible for program recipients/participants, including but not limited to expanded service hours for all services, timely responses to contacts by recipients/participants, resolving individual County staff performance problems, participating in customer satisfaction surveys, and identifying and implementing corrective actions. Amounts not to exceed five (5) percent may be withheld from any subsequent payment amounts if the County does not produce an approvable corrective action plan when required by the Department, and implement an approved corrective action plan when required by the Department throughout the remainder of this Contract.

3. Payment Accuracy

Accuracy in determining eligibility for and amounts of food stamps is essential for assuring adequate and timely service to customers as well as for compliance with state and federal rules, regulations, and policies. Both the Department and Milwaukee County have invested time and resources in the effort to improve food stamp payment accuracy in Milwaukee County

No later than January 31, 2002, the Department will determine the food stamp error rate for all food stamp cases including IM Cases and W-2 Cases in Milwaukee County for federal fiscal year 2001. In the event the error rate for Milwaukee County for FFY 2001 as determined by the Department is equal to or greater than thirteen (13) percent liquidated damages of \$250,000 will be assessed against Milwaukee County. Milwaukee County will have the option of having the penalty assessed against the Income Maintenance Administrative Allocation in the 2001 IM Contract during the close-out period or the 2002 IM Contract during the first six months of the contract. This reduction is in addition to other adjustments provided for in this Contract. Liquidated damages are not eligible for federal reimbursement.

4. Fiscal Conditions on the Earning of the Funds

These funds are earned up to the level and under conditions outlined in section 1 of this Appendix and this Contract.

The Department shall apply these conditions, and conditions of this Contract in determining the total final funds earned under this Appendix at the close of this Contract.

5. Payment Procedures

These funds shall be paid in accordance with the Department's Policies and Procedures and this Contract.

→



State of Wisconsin  
2001 - 2002 LEGISLATURE

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ej5

LFB:.....Carreon - Permit penalties paid by counties and tribes to be used for food stamp reinvestment activities

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

Seaton  
Thanks

1 At the locations indicated, amend the bill as follows:

2 1. Page 547, line 4: delete lines 4 to 9 and substitute:

3 "20.445 (3) (L) Welfare fraud and error reduction, ~~state operations~~ activities and  
4 food stamp sanctions. From the All moneys received as the state's share of the  
5 recovery of overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats.,  
6 s. 49.195, 1997 stats., and ss. 49.125 (2), and 49.497 (1) ~~the amounts in the schedule~~  
7 and all moneys received from counties and tribal governing bodies as a result of error reduction activities  
8 under s. 49.197 ~~(X)~~ for the department's activities to reduce error and fraud in the  
9 food stamp, aid to families with dependent children, Wisconsin works program and  
10 medical assistance programs under s. 49.197, to pay federal sanctions under the food  
11 stamp program, and for food stamp reinvestment activities.

and all moneys transferred under 2001 Wisconsin Act  
.... (this act), section 9258 (2g) ✓

strike  
comma

plain comma

1 SECTION 740f. 20.445 (3) (Lm) of the statutes is repealed.”.

2 2. Page 796, line 9: delete “(Lm),” and substitute “(Lm),”.

3 ~~3.~~ Page 804, line 7: delete the material beginning with “The department” and  
4 ending with “(L).” on line 9 ~~and substitute~~ “The department shall fund the activities  
5 under this section from the appropriation under s. 20.445 (3) (L).”.

6 ~~4.~~ Page 804, line 12: delete “(L), and (Lm)” and substitute “and (L) and (Lm).”

7 ~~5.~~ Page 1793, line 8: after that line insert:

8 “29 WELFARE FRAUD AND ERROR REDUCTION. The unencumbered balance of the  
9 appropriation to the department of workforce development under section 20.445 (3)  
10 (Lm), 1999 stats., is transferred to the appropriation account under section 20.445  
11 (3) (L) of the statutes, as affected by this act.”.

12 (END)

Item#. Page 802, line 14: delete “(Lm),”.

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Item#. Page 804, line 5: after “2027”  
insert “

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~~period~~  
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State of Wisconsin  
2001 - 2002 LEGISLATURE

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LFB:.....Carreon - Permit penalties paid by counties and tribes to be used for food stamp reinvestment activities

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

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6 s. 49.195, 1997 stats., and ss. 49.125 (2), and 49.497 (1), the amounts in the schedule  
7 all moneys received from counties and tribal governing bodies as a result of error  
8 reduction activities under s. 49.197, and all moneys transferred under 2001  
9 Wisconsin Act .... (this act), section 9258 (2g), for the department's activities to reduce  
10 error and fraud in the food stamp, aid to families with dependent children, Wisconsin

1 ~~works program and medical assistance programs under s. 49.197, to pay federal~~  
2 ~~sanctions under the food stamp program, and for food stamp reinvestment activities.~~

3 **SECTION 740f.** 20.445 (3) (Lm) of the statutes is repealed.”

4 **2.** Page 796, line 9: delete “(Lm),” and substitute “(Lm),”.

5 **3.** Page 802, line 14: delete “(Lm),”.

6 **4.** Page 804, line 5: after “2029” insert “. The department shall fund the”  
7 activities under this section from the appropriation under s. 20.445 (3) (L).”

8 **5.** Page 804, line 7: delete the material beginning with “The department” and  
9 ending with “(L).” on line 9.

10 **6.** Page 804, line 12: delete “, (L), and (Lm)” and substitute “, and (L) and (Lm)”.

11 **7.** Page 1793, line 8: after that line insert:

12 “(2q) WELFARE FRAUD AND ERROR REDUCTION. The unencumbered balance of the  
13 appropriation to the department of workforce development under section 20.445 (3)  
14 (Lm), 1999 stats., is transferred to the appropriation account under section 20.445  
15 (3) (L) of the statutes, as affected by this act.”.

16 (END)

*under reinvestment  
agreements with the  
federal department of  
agriculture that are ~~now~~  
designed  
to improve  
the food stamp  
program*



LFB:.....Carreon – Permit penalties paid by counties and tribes to be used for food stamp reinvestment activities

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

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7 all moneys received from counties and tribal governing bodies as a result of error  
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11 works program and medical assistance programs under s. 49.197, to pay federal

1 sanctions under the food stamp program, and for food stamp reinvestment activities  
2 under reinvestment agreements with the federal department of agriculture that are  
3 designed to improve the food stamp program.

4 **SECTION 740f.** 20.445 (3) (Lm) of the statutes is repealed.”.

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16 (3) (L) of the statutes, as affected by this act.”.

17 (END)